

THIRTY-SECOND DAY
(Monday, March 9, 1981)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Absent-excused: Brooks.

A quorum was announced present.

The Reverend Dr. John Shouse, University Baptist Church, Austin, offered the invocation as follows:

Almighty God, in whom is the strength for this world
From the small selfishness imprisoning our lives, give us release.
Grant us the wisdom to know Thy will for the world.
Become for us a Living Presence which like the air compasses the globe but
also moves within us.
Broaden our sympathies
Expand our minds
Enlarge our hopes
And lead us all, legislators and citizens, in paths of peace and great promise
because it is Thou who art our Guide. Amen.

On motion of Senator Snelson and by unanimous consent, the reading of the Journal of the proceedings of Thursday, March 5, 1981, was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Brooks was granted leave of absence for today on account of important business on motion of Senator Snelson.

CO-AUTHOR OF SENATE BILL 851

On motion of Senator Doggett and by unanimous consent, Senator Harris will be shown as Co-author of S.B. 851.

CO-AUTHOR OF SENATE BILL 855

On motion of Senator Caperton and by unanimous consent, Senator Farabee will be shown as Co-author of S.B. 855.

REPORT OF STANDING COMMITTEE

Senator Harris submitted the following report for the Committee on Economic Development:

S.B. 590
S.B. 665
S.B. 478 (Amended)

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.B. 824 by Andujar State Affairs
Relating to the authority of a beer manufacturer to sell beer to its employees.

S.B. 825 by Andujar State Affairs
Relating to the regulation of vehicular traffic and littering on river banks; providing penalties.

S.B. 826 by Glasgow, Brooks Human Resources
Relating to the requirement of consent by or for mentally retarded persons under the Mentally Retarded Persons Act of 1977 as amended, and relating to rights of mentally retarded persons and notice of such rights.

S.B. 827 by Glasgow Human Resources
Relating to continuation of the Board of Vocational Nurse Examiners and regulation of the practice of vocational nursing; providing penalties.

S.B. 828 by Andujar Human Resources
Relating to amending Chapter 216, Acts of the 49th Legislature, Regular Session, 1945, as amended, (Article 4419c, Vernon's Texas Civil Statutes); providing a new definition of a "crippled child"; authorizing limited out-of-state services to be provided to eligible recipients; and declaring an emergency.

S.B. 829 by Farabee State Affairs
Relating to regulation of carbon dioxide pipelines as common carriers.

S.B. 830 by Harris Economic Development
Amending section (b), Article 1.07, Title 79, Revised Civil Statutes of Texas, as amended (Article 5069-1.07, Vernon's Texas Civil Statutes); fixing maximum interest rates for certain loans or other extensions of credit; and declaring an emergency.

S.B. 831 by Doggett Human Resources
Relating to coverage for the sickness of alcoholism in individual and group health insurance policies.

S.B. 832 by Glasgow Human Resources
Relating to review of the placement of a child in a child-care institution.

S.B. 833 by Glasgow Jurisprudence
Relating to the right to counsel of a witness before a grand jury.

S.B. 834 by Traeger Intergovernmental Relations
Relating to eligibility for and amount of benefits from the volunteer fire fighters' relief and retirement fund.

S.B. 835 by Parker Jurisprudence
Relating to the elements of and penalty for the offense of carrying a weapon in a place where weapons are prohibited.

S.B. 836 by Caperton, Mauzy Jurisprudence
Relating to the effect of conviction of a misdemeanor when probation is granted.

S.B. 837 by Caperton Finance
Relating to an appropriation to Walker County for the expense of criminal prosecutions.

S.B. 838 by Caperton Finance
Relating to an exemption from the franchise tax for corporations that hold property exclusively for other corporations that are exempted from the franchise tax.

S.B. 839 by Williams Economic Development
Relating to identification of persons operating railroad locomotives, issuance of permits, and records relating to accidents.

S.B. 840 by Mengden State Affairs
Relating to the ballot proposition at an election to authorize the issuance of bonds by a political subdivision.

S.B. 841 by Mengden Intergovernmental Relations
Relating to salary increases for members of governing bodies of certain political subdivisions.

S.B. 842 by Mengden Finance
Relating to the taxation of spouses of decedents.

S.B. 843 by Caperton Natural Resources
Relating to the application of the Uniform Wildlife Regulatory Act to Colorado County.

S.B. 844 by Caperton Natural Resources
Relating to the taking and killing of spike deer in Trinity County.

S.B. 846 by Caperton State Affairs
Relating to the form and reporting of political contributions and expenditures.

S.B. 847 by Caperton State Affairs
Relating to periods in which political contributions to certain officeholders are prohibited; providing a penalty.

S.B. 848 by Caperton State Affairs
Relating to political reporting requirements for withdrawn candidates.

S.B. 849 by Caperton State Affairs
Relating to the definition of candidate for purposes of reporting political funds by candidates.

S.B. 850 by Farabee Intergovernmental Relations
Relating to the jurisdiction of the County Court at Law of Wichita County.

S.B. 851 by Doggett, Harris State Affairs
Relating to continuation of the Texas State Board of Plumbing Examiners and the regulation of plumbers.

S.B. 852 by Caperton State Affairs
Relating to state payment for expenses arising from a criminal prosecution for an offense committed by a prisoner or employee of the department of corrections.

S.B. 853 by Parker State Affairs
Relating to repeal of the Administrative Procedure and Texas Register Act.

S.B. 854 by Doggett State Affairs
Relating to disclosure of information by lobbyists.

S.B. 855 by Caperton, Farabee State Affairs
Relating to the surrender of a driver's license as bond after arrest for a misdemeanor traffic violation.

S.J.R. 35 by Leedom Finance
Proposing a constitutional amendment to authorize political subdivisions to limit annual increases in ad valorem taxes on residence homesteads.

S.J.R. 36 by Mengden Finance
Proposing an amendment to the Texas Constitution to prohibit the legislature from taxing personal or corporate incomes without approval by a popular vote.

S.J.R. 37 by Mengden Finance
Proposing a constitutional amendment to require voter approval of new or increased state taxes.

S.J.R. 38 by Mengden Finance
Proposing a constitutional amendment restricting the power of political subdivisions to increase taxes.

S.J.R. 39 by Mengden Finance
Proposing a constitutional amendment relating to voter approval of local government debt.

S.J.R. 40 by Kothmann Finance
Proposing a constitutional amendment to exempt from property taxation all of the value of the residence homesteads and certain personal property of disabled veterans of World War I or their surviving spouses.

S.C.R. 59 by Andujar Administration
Inviting The Honorable John G. Tower to address a Joint Session of the Legislature.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

H.B. 1002, To Committee on Finance.

H.B. 629, To Committee on State Affairs.

H.C.R. 82, To Committee on State Affairs.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Subcommittee on Nominations:

Austin, Texas
March 9, 1981

TO THE SENATE OF THE SIXTY-SEVENTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE TEXAS GUARANTEED STUDENT LOAN CORPORATION:

For a six-year term to expire January 31, 1987:

SHIRLEY M. BINDER of Austin, Travis County, is being reappointed.

GARY W. BRUNER of Arlington, Tarrant County, is being reappointed.

TO BE A MEMBER OF THE UPPER NECHES RIVER MUNICIPAL WATER AUTHORITY:

For a term to expire January 1, 1987:

GORDON B. BROYLES of Palestine, Anderson County, will be replacing John B. McDonald of Palestine, Anderson County, whose term expires.

TO BE A MEMBER OF THE TEXAS BOARD OF PRIVATE INVESTIGATORS AND PRIVATE SECURITY AGENCIES:

For a six-year term to expire January 31, 1987:

GEORGE A. SMITH, JR. of Dallas, Dallas County, is being reappointed.

DALE O. SIMPSON of Dallas, Dallas County, is replacing Robert C. Taylor of Houston, Harris County, whose term expired.

TO BE A MEMBER OF THE BOARD OF REGENTS OF TEXAS TECH UNIVERSITY:

For a six-year term to expire January 31, 1987:

JOHN E. BIRDWELL, JR. of Lubbock, Lubbock County, is replacing Robert Lee Pfluger of San Angelo, Tom Green County, whose term expired.

TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LOWER COLORADO RIVER AUTHORITY:

For a six-year term to expire on December 31, 1987:

MARVIN SELIG of Seguin, Guadalupe County, is replacing J. R. Thornton of San Marcos, Hays County, whose term expired.

Respectfully submitted,

William P. Clements, Jr.
Governor of Texas

SENATE BILL 2 WITH HOUSE AMENDMENTS

Senator Blake called S.B. 2 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend S.B. 2 as follows:

(1) On page 1, lines 13-16, strike the underlined language and substitute: "The disqualification continues until the claimant has returned to employment and either worked for six weeks or earned wages equal to six times his weekly benefit amount".

(2) On page 1, lines 22-25, strike the underlined language and substitute: "The disqualification continues until the claimant has returned to employment and either worked for six weeks or earned wages equal to six times his weekly benefit amount".

(3) On page 2, lines 9-12, strike the underlined language and substitute: "The disqualification continues until the claimant has returned to employment and either worked for six weeks or earned wages equal to six times his weekly benefit amount".

Amendment No. 2

Amend Senate Bill 2 by adding in Section 1 after "Section 5 (a)" on page 1, line 20, the following:

Provided no claimant shall be disqualified if he has voluntarily left his work to accompany, follow, or join the other spouse in a new place of residence if he has clearly shown, upon arrival at the new place of residence, an immediate entry into the labor market and is, in all respects, available for suitable work; and

Provided no claimant shall be disqualified because of voluntarily leaving due to medically verified illness, injury, disability or pregnancy.

Amendment No. 3

Amend Senate Bill 2 by adding in Section 1 after "Section 5 (a)" on page 1, line 20, the following:

Provided no claimant shall be disqualified if he or she has voluntarily left his or her work to accompany, follow, or join the other spouse in a new place of residence if he or she has clearly shown, upon arrival at the new place of residence, an immediate entry into the labor market and is, in all respects, available for suitable work; and

Provided no claimant shall be disqualified because of voluntarily leaving due to medically verified illness, injury, disability or pregnancy.

Amendment No. 4

Amend S.B. 2 as follows:

(1) On page 1, line 16, insert a comma after "weeks".

(2) On page 1, strike lines 17-20 and substitute: "unless the individual left work to move with a spouse from the area in which the individual worked. In that case, the [Sueh] disqualification shall be for not less than six (6) [one (1)] nor more than twenty-six (26) [twenty-five (25)] benefit periods following the filing of a valid claim, as determined by the Commission according to the circumstances in each case."

Amendment No. 5

Amend **S.B. 2** on pages 6 and 7 by renumbering Sections 2 and 3 as Sections 3 and 4 and inserting a new Section 2 to read as follows:

SECTION 2. Section 19, Texas Unemployment Compensation Act, as amended (Article 5221b-17, Vernon's Texas Civil Statutes), is amended by adding Subsection (q) to read as follows:

"(q) 'Misconduct' means mismanagement of a position of employment by action or inaction, neglect that places in jeopardy the lives or property of others, intentional wrongdoing or malfeasance, intentional violation of a law, or violation of a policy or rule adopted to ensure orderly work and the safety of employees, but does not include an act of misconduct that is in response to an unconscionable act of an employer or superior."

Amendment No. 6

Amend **S.B. 2** as follows:

(1) On page 1, line 16, insert an underlined period after "weeks" and add the following after the period: "Military personnel who do not re-enlist may not be considered to have left work voluntarily without good cause connected with work"

(2) On page 6, insert the following between lines 26 and 27:

"(i) This Section does not disqualify a claimant whose work-related reason for separation from employment was urgent, compelling, and of a necessitous nature so as to make separation involuntary."

Amendment No. 7

Amend Senate Bill 2 by adding in Section 1 after "Section 5 (a)" the following:

Provided no claimant shall be disqualified because of his or her leaving due to medically verified illness, injury, disability or pregnancy and are still available for work.

The amendments were read.

Senator Blake moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Andujar, Blake, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Truan, Uribe, Vale, Williams, Wilson.

Nays: Travis.

Present-not voting: Jones.

Absent-excused: Brooks.

GUEST PRESENTED

Senator Ogg was recognized and introduced Mr. Carl Walker, Acting United States District Attorney for the Southern District of Texas.

Mr. Walker was welcomed as a guest today.

SENATE BILL 183 ON SECOND READING

On motion of Senator Snelson and by unanimous consent, the regular order of business and Section 5 of Article III of the State Constitution was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 183, Relating to investment of the Permanent School Fund in certain short-term obligations.

The bill was read second time and was passed to engrossment.

SENATE BILL 183 ON THIRD READING

Senator Snelson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 183** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Brooks.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Brooks.

SENATE BILL 602 ON SECOND READING

On motion of Senator Sarpalius and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 602, Relating to certification of pesticide applicators. (Submitted by Governor as an emergency)

The bill was read second time.

Senator Sarpalius offered the following committee amendment to the bill:

Amend **S.B. 602** by adding a new Section 7 to read as follows:

SECTION 7. Section 23, Texas Pesticide Control Act (Article 135b-5a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 23. LICENSE RENEWAL. Each commercial applicator license and noncommercial applicator license expires on the last day of February (~~December 31~~) of the year following issuance (~~in which it was issued~~). A person having a valid current license may renew the license for another year without retesting by paying to the regulatory agency an annual license fee, as provided in this Act,

unless the head of the regulatory agency determines that additional knowledge is required in the license use categories or subcategories in which the licensee applies for license renewal, in which case training and/or retesting (~~the passing of a new examination~~) is necessary for license renewal. (~~However, if a certified applicator does not file with the regulatory agency by March 1 of any year his application for license renewal, accompanied by payment of the annual license fee, he must pass another examination before he may be recertified.~~)

Renumber Sections 7-13 accordingly.

The committee amendment was read and was adopted.

Senator Sarpalius offered the following committee amendment to the bill:

Amend S.B. 602 by striking Section 4 and replacing it with the following language:

SECTION 4. Sections 19(a) and (e), Texas Pesticide Control Act (Article 135b-5a, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) No person, except an individual working under the direct supervision of a certified applicator, may operate a business that applies ~~apply~~ restricted-use or state-limited-use pesticides to the land of another for hire or compensation at any time without having a valid current commercial applicator license issued by a regulatory agency for the license use categories and subcategories, if any, in which the pesticide application is to be made.

(e) The amount of the bond or liability insurance required may not be less than \$5,000 nor more than \$100,000 for property damage insurance and may not be less than \$5,000 for bodily injury insurance. The head of the regulatory agency may, by regulation, require different amounts of bond or insurance coverage for different classifications of operations under this Act. The bond or liability insurance must be maintained at not less than the sum set by the agency head at all times during a period licensed. The head of the regulatory agency shall be notified by the party taking action at least 10 days prior to any reduction requested by a licensee or any cancellation of a bond or policy; otherwise, liability of the surety or insurer for all claims is limited to the face amount of the bond or liability insurance policy. The agency head may accept a liability insurance policy or bond in the proper sum which has a deductible clause in an amount of not more than \$1,000 for the total amount of liability insurance or bond required by this section. However, if the applicant has not satisfied the requirement of the deductible amount in any prior legal claim, a policy or bond with a deductible clause may not be accepted by an agency head unless the applicant furnishes the agency with a surety bond which satisfies the amount of the deductible clause as to all claims that may arise as a result of his operation. Should the surety furnished become insufficient or otherwise unsatisfactory, a licensee shall, on notice of the insufficiency or other defect, immediately file a new bond or policy of insurance. A licensee may not operate as a commercial applicator during an uninsured period. Failure to file a bond or policy of insurance and failure to maintain the security in the required amounts are grounds for suspension or revocation of a commercial applicator license.

The committee amendment was read and was adopted.

On motion of Senator Sarpalius and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 602 ON THIRD READING

Senator Sarpalius moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 602 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Brooks.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE SENATE BILL 142 ON SECOND READING

Senator Mengden moved that Senate Rules 12 and 89 and Section 5 of Article III of the State Constitution be suspended and that C.S.S.B. 142 be taken up for consideration at this time:

C.S.S.B. 142, Relating to the demonstration of proficiency in certain subjects as a prerequisite for promotion or graduation in public schools.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Yeas: Andujar, Blake, Brown, Caperton, Doggett, Farabee, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Santiesteban.

Absent: Glasgow.

Absent-excused: Brooks.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

Amend **C.S.S.B. 142** by striking the phrase, "language disability" and substituting the phrase, "limited English proficiency" in subsection (b) of quoted Section 21.504 in Section 1.

The amendment was read and was adopted.

On motion of Senator Mengden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 142 ON THIRD READING

Senator Mengden moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 142 be placed on its third reading and final passage.